



Appeal Decision

Site visit made on 22 April 2024

by K Winnard LL.B Hons Solicitor

an Inspector appointed by the Secretary of State

Decision date: 14.05.2024

Appeal Ref: APP/J2373/D/23/3336089

2-4 Gloucester Avenue, Blackpool, Lancashire, FY1 4EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Hazel Dennett against the decision of Blackpool Borough Council.
 - The application Ref. 23/0178 dated 27 February 2023, was refused by notice dated 2 October 2023.
 - The development is described as the conversion of an existing garden room to form a self contained annex.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of an existing garden room to form a self-contained annex at 2-4 Gloucester Avenue, Blackpool, Lancashire, FY1 4EJ in accordance with the terms of the application, Ref 23/0178, dated 27 February 2023, and the plans submitted with it, subject to the following condition:
 - 1) The accommodation hereby approved shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 2-4 Gloucester Avenue.

Procedural Matters

2. An application for costs was made by Mrs Hazel Dennett against Blackpool Borough Council. This application will be the subject of a separate Decision.
3. I have had regard to the appellant's assertion that the development the subject of the appeal could not constitute development. A determination as such is beyond the scope of a section 78 appeal. For the avoidance of doubt, I have determined this appeal on its merits on the basis of the Development Plan and other material considerations.
4. The conversion of the building, the subject of the appeal, to a self-contained annex has already taken place. Indeed, the Council considered the planning application the subject of the appeal based on the proposed use having already commenced. Consequently, the appeal is retrospective and although I have considered the scheme in accordance with the submitted plans, I am aware of no material difference between what they show and what I saw on site.
5. The description of development shown above is taken from the planning application and appeal forms. It differs from that shown on the decision notice.

It is clear from the information before me that no revised description has been agreed. Accordingly, I have used the one given on the original application and appeal forms.

6. In December 2023 the Government published its revised National Planning Policy Framework (the Framework). In this instance the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework and that no party would be disadvantaged by such a cause of action.

Main Issues

7. The main issues in the appeal are (i) whether the proposal would be tantamount to a separate residential unit and (ii) the living conditions of the occupants of the annex.

Reasons

Separate residential unit

8. The appeal property, No 2-4 Gloucester Avenue, is a modest bungalow within a residential street set back from the road with a small front garden/courtyard. It is adjacent to the access to a row of garages and their associated forecourt. The building, the subject of the appeal, is sited within the western part of the curtilage of the dwelling fronting a small patio/seating area and is attached to the first of the row of garages. A planning approval¹ in February 2021 (the 2021 approval) granted permission for the erection of front and rear dormers and alterations to an existing garage and use as altered as garden room. The building has subsequently been converted into a self contained annex. Some of the external alterations permitted under the 2021 approval, including the bricking up of the former garage door which had fronted the garage forecourt, have been completed. The building consequently has taken on a residential character through these changes.
9. The Blackpool Local Plan Part 2: Site Allocations and Development Management Policies (Local Plan) Policy DM2:Residential Annexes recognises the need for annex accommodation and sets out a number of criteria to be taken into account when considering a proposal for a residential annex. I have had regard to the assertion of the appellant's agent that this policy is only directed at new operational development; however the proposal involves a building, intended as an ancillary use within a residential curtilage, albeit a conversion. The objective of the policy is clearly to control this type of accommodation and I note that the explanatory text to the policy acknowledges that such accommodation could take the form of a conversion. There is no reason therefore in my view why I should not apply the policy in these circumstances.
10. The distinctive characteristic of a dwelling house has been described as its ability to afford to those who use it the facilities for day to day private domestic existence². The Council considers that the extent of the facilities provided to be a significant factor in this instance. However even if the accommodation

¹ 20/0711

² *Gravesham BC v SSE and O'Brien* 1983

provides facilities for independent day to day living I am mindful that case law states that it would not necessarily become a separate planning unit³.

11. Hence it is a matter of fact and degree in any particular case and each case must therefore be determined on its individual merits. The appellant advises that the annex would provide accommodation for visiting family and friends/occasional use by a carer when necessary and would be ancillary to the main use. In this instance the accommodation provided has involved the creation of a bedroom, a living area/kitchen and a shower room. This therefore amounts to additional primary accommodation that could not be described as incidental to the enjoyment of the existing dwellinghouse. There is no suggestion that the occupiers of the annex would be reliant upon the support or facilities in the main dwelling and the floor space would provide accommodation that could easily be used without reliance on the adjacent dwelling.
12. However on the information before me and my on site observations, there are a number of other factors which lead me to the conclusion that the building should be regarded as an annex functionally linked to the main dwelling. The single pedestrian access onto Gloucester Avenue serves both the dwelling and the annex and there is no demarcation which separates the annex from the western part of the dwelling in terms of garden space. The existing garden/hardstanding would be unaltered. Only a narrow passage separates the annex and the bungalow and the annex could easily be used at a later date as an integral part of the main dwelling. The entrance doors of the lounge and the annex are similar in design and style and together create a strong visual link. Both open onto the courtyard/patio area providing a close relationship between the annex and the house. Taking into account the limited external garden/patio space, and the siting and layout of the annex it is unlikely in my view that such sharing facilities would be satisfactory for the occupants of the dwelling if there were no connection between them and the occupants of the annex. The modest nature of the accommodation provided, whilst self-contained, is of a smaller scale than that found in the dwelling and as such is subservient to the facilities provided there. Overall, in my view, the annex would meet the criteria referenced above.
13. On the information before me, I am satisfied that there would be a functional link between the dwelling and the annex as required by Policy DM2. I acknowledge the Council's concern that the building could be used as a separate dwelling but that is not the proposal before me. If the annex building is not used as such or there is a material change of use in the future to create a separate dwelling then a separate grant of planning permission would be required, and the building would be at risk of enforcement action if such permission were not granted. I note that Policy DM2 also says that a legal agreement will be sought to ensure that the occupation of the annex is tied to the existing dwelling. However, the use and occupancy of the annex could be controlled by a suitably worded planning condition that would ensure that its use would be ancillary to the dwelling. In this case I see no reason why the matter could not be dealt with by means of a planning condition if permission were to be granted.

³ Uttlesford DC v SSE & White 1992

14. Accordingly, I conclude that the building can be considered to be an annex and that it would not as a matter of fact and degree be tantamount to the creation of a separate independent dwelling. Accordingly, it would accord with Policy DM2 of the Local Plan which seeks to ensure that a residential annex is accommodation which is ancillary to the main dwelling.

Living Conditions

15. The accommodation within the annex is modest. The Council advise that it fails to meet any internal floor standards, and the bedroom has a limited head height and poor outlook. However, the Council has not directed me to any detailed housing standards and on the limited information that has been supplied the internal floor standards set out in the Council's New Homes from Old Places Residential Conversion and Sub-Division Supplementary Planning Document (SPD) for a lounge/dining room and a single bedroom appear to be met. There is no indication before me as to the minimum number of people who would occupy the space at any one time, and although I note that the bedroom accommodates a small double sized bed, that implies nothing as to occupancy. The rooflight would provide some light and whilst more restrictive than a vertical window would not be so restrictive as to be harmful for an occupier who may only occupy the bedroom occasionally. The head height would not fall significantly short of the height recommended in the SPD. Taken as a whole and mindful of the ancillary nature of the accommodation, I am satisfied that the accommodation provided is such that it provides satisfactory amenity space for future occupiers.
16. Due to its former use and location, the annex shares an internal wall with a garage, which now forms the first of the row of garages adjacent to the appeal property. Whilst I appreciate that the appellant has no control over the use of this garage, I do not consider that any noise, smells or disturbance associated with a single modest garage would be so significant as to be harmful given the predominantly residential surroundings of the appeal site. Further, adherence to building regulations which would control noise insulation would be necessary in order for the annex to be inhabited.
17. I therefore conclude that the development would provide appropriate living conditions for future occupiers with reference to internal floor and height standards, and noise, fumes or disturbance. Of the policies quoted by the Council I find Policy CS7 of The Blackpool Local Plan Part 1: Core Strategy 2012-2027 to be the most relevant and find that the proposal would comply with this policy in that it would ensure that the amenities of potential occupiers would not be adversely affected by the proposal.

Conditions

18. As the development has already taken place, there is no requirement for a condition relating to its commencement. For the reasons given above a condition restricting the use of the annex as ancillary accommodation is appropriate. I have amended the suggested wording in the interests of precision and clarity.

Conclusion

19. For the reasons given and having taken all other matters into account I allow the appeal as set out in the formal decision notice above.

K Winnard

INSPECTOR